

TREASURY BOARD REGULATIONS

CORRESPONDENCE

WITH THE

AUDITOR GENERAL

RE

TREASURY BOARD REGULATIONS

ARISING FROM THE

MARTINEAU DEFALCATIONS

PRINTED BY ORDER OF PARLIAMENT



OTTAWA

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MEMORANDUM

By a commission under the Great Seal of Canada, dated the sixth day of March, 1903, three commissioners were appointed to inquire into all the circumstances connected with the Martineau defalcations in the department of Militia and Defence, and into the methods of keeping the accounts in the several departments of the government of Canada, particularly in relation to the issuing of cheques and the receipt and disposal of public moneys, and to report what changes, if any, were deemed advisable for the purpose of securing the fullest possible protection of the public interest.

The names of the commissioners so appointed were :—John Mortimer Courtney, Esq., C.M.G., deputy minister of Finance ; George Burn, Esq., general manager of the Bank of Ottawa, Ottawa ; and Ambrose L. Kent, Esq., of Montreal, chartered accountant.

The commissioners, after examination of the several departments, made a report addressed to His Excellency the Governor General in Council, which report has been laid before the House and is printed,—Sessional paper No. 29b of this session.

The commissioners, in reporting the changes deemed advisable for the purpose of securing the fullest protection of the public interest, made the following remarks and suggestions in regard to the letter of credit system :—

Extract from report of the Commissioners, pages 10 and 11.

‘ The commissioners have now to take up the third part, viz.:—To report what changes, if any, are deemed advisable for the purpose of securing the fullest protection of the public interest.

‘ The commissioners, before entering on this part of their report, beg to point out that the Martineau defalcation occurred under the letter of credit system. This system they desire to state has been in operation in Canada for over 30 years, and has been found to be an unqualified success. It has placed within the reach of every department of the service a simple and easy means of making such payments as could be made before audit in the speediest manner possible. At the same time it has enabled the Finance Department to utilize the government funds to the best possible advantage. The system also affords ample security against fraud if properly administered.

‘ The commissioners further desire to state that since the inception of the letter of credit system the only defalcation under it that has occurred is this one in the Militia Department, and this through no defect of the system but in consequence of its faulty administration.

‘ The system, in the opinion of the commissioners, is admirable. But in order to prevent a recurrence of a defalcation, or of any tampering with the government funds or accounts, and to bring the whole banking system more under the control of the Finance Department where it properly belongs, and at the same time to leave to the several departments the facilities for speedy payment of accounts, the commissioners suggest that the following method might be adopted :—

‘ 1. That all the bank statements of the paid cheques for the several departments, together with the cheques themselves, be sent direct by the banks to the Finance Department.

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‘2. That a certain number of the officials of the Finance Department be employed solely in the checking and adjusting of these accounts, as well as of the letter of credit and Receiver General’s accounts of that department. The banks should be instructed to render these statements and cheques daily, weekly or monthly, as the volume of business and importance of the various accounts demand.

‘3. That, as provided in section 30 of the Audit Act, a list of cheques, drawn by the various departments, giving numbers, dates and amounts, be sent to the Finance Department at such periods within the month as may be required. When these statements and bank accounts are checked and adjusted, a list of outstanding cheques should be prepared. A letter of credit ledger should be kept, and such minor details arranged as may be found necessary for the proper conduct of the work.

‘4. After adjustment, the paid cheques, list of outstanding cheques and certificate of adjustment should be sent to the Auditor General, the correctness of which could be tested by him after comparison with the semi-monthly or monthly balances furnished him by the banks.

‘This system will prevent any person or persons connected with the issue of departmental cheques from covering up any fraud arising from collusion or neglect, such as issuing forged or raised cheques; or from manipulating the bank accounts for fraudulent purposes; or from the destruction of cheques or accounts for the purpose of removing the means of detection and conviction.

‘This system will not prevent forgery, but it will restrain the person disposed to fraud, for the reason that it provides such speedy means of detection.’

The Treasury Board took action in accordance with the recommendation of the commissioners and correspondence with the Auditor General followed.

FINANCE DEPARTMENT,
September 17, 1903.

MINUTES OF TREASURY BOARD AND CORRESPONDENCE

EXTRACT from the Minutes of a meeting of the Honourable the Treasury Board, held at Ottawa, on the thirteenth day of June, 1903.

TREASURY BOARD.

The Board had under consideration the report of the commissioners appointed to inquire into all the circumstances connected with the recent defalcations in the Department of Militia and Defence, and into the methods of keeping the accounts in the several departments of the Government of Canada, particularly in relation to the issuing of cheques and the receipt and disposal of public moneys, and to report what changes, if any, are deemed advisable for the purpose of securing the fullest possible protection of the public interest, and they approve of the following suggestions made in such report in regard to the letter of credit system, and direct that the suggestions be carried into effect with regard to the statements, accounts and cheques in connection with payments made in respect of the fiscal year 1903-4, and subsequent fiscal years:—

1. That all the bank statements of the paid cheques for the several departments, together with the cheques themselves, be sent direct by the banks to the Finance Department.

2. That a certain number of the officials of the Finance Department be employed solely in the checking and adjusting of these accounts, as well as of the letter of credit and Receiver General's accounts of that department. The bank should be instructed to render these statements and cheques daily, weekly or monthly, as the volume of business and importance of the various accounts demand.

3. That, as provided in section 30 of the Audit Act, a list of cheques, drawn by the various departments, giving numbers, dates and amounts, be sent to the Finance Department at such periods within the month as may be required. When these statements and bank accounts are checked and adjusted, a list of outstanding cheques should be prepared. A letter of credit ledger should be kept, and such minor details arranged as may be found necessary for the proper conduct of the work.

4. After adjustment, the paid cheques, list of outstanding cheques and certificate of adjustment should be sent to the Auditor General, the correctness of which could be tested by him after comparison with the semi-monthly or monthly balances furnished him by the banks.

J. M. COURTNEY, *Secretary*.

OTTAWA, June 15, 1903.

MY DEAR FIELDING,—I understand that the commissioners who conducted inquiry into the Martineau frauds have recommended that the departmental cheques be sent by the bank direct to your department for audit instead of being returned to the department issuing them. Some three months ago my deputy made this request of the Auditor

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General, but as yet there has been no change in procedure. To-day he again brought the matter to my attention, and urges that the recommendation in question be put into effect at once.

The advantage of the proposed arrangement as an additional difficulty in the way of collusion is, I am sure, obvious, and if, because of omission of its adoption, there should be any further embezzlement, it appears to me that we would not be able to offer any satisfactory excuse. Whether or not the recommendation is to be put into force generally, I would at least urge that the wishes of my deputy, so far as concerns this department, be given effect to at once.

Yours sincerely,

W. MULOCK.

HON. W. S. FIELDING,
Minister of Finance,
Ottawa.

OTTAWA, June 16, 1903.

MY DEAR SIR WILLIAM,—I have your letter of the 15th instant respecting the report of the commissioners to inquire into the Martineau frauds.

The Treasury Board have already had the matter under consideration and have approved of the recommendations of the commissioners on several matters, including the one mentioned in your letter. Immediate steps will be taken to carry out these recommendations. The various departments will receive a communication from us to-morrow at the latest.

Yours faithfully,

W. S. FIELDING.

HON. SIR WILLIAM MULOCK, K.C.M.G.,
Postmaster General, Ottawa.

OTTAWA, June 25, 1903.

DEAR MR. FIELDING,—With reference to the short discussion which took place at the Public Accounts Committee regarding my contention that that committee was the proper place to consider my statement on the findings of the report of the commission on the Martineau irregularities, and the objections raised by you to that contention, I should be glad to have an opportunity of continuing the discussion with you. Some points have since occurred to me which I should like to put before you in conversation. Kindly let me know when I might see you in the near future at your convenience.

Sincerely yours,

J. L. McDOUGALL.

HON. W. S. FIELDING,
Minister of Finance.

OTTAWA, June 26, 1903.

DEAR MR. McDOUGALL,—I have your letter of 25th instant. I shall be glad to see you at any time when I am free to hear your further views on the findings of the Martineau report. It is almost impossible for me to fix a precise time to have you call. We shall have to arrange for a meeting perhaps during the sitting of the House of Commons some afternoon.

Yours faithfully,

W. S. FIELDING, *M.F.*

J. L. McDOUGALL, Esq., C.M.G.,
Auditor General.

SESSIONAL PAPER No. 29d

AUDITOR GENERAL'S OFFICE, CANADA,

OTTAWA, July 3, 1903.

SIR,—I have this morning examined more particularly than I did before the circular of the Treasury Board of the 13th June, dealing with the letter of credit cheques after they have been paid by the banks, and have come to the conclusion that the procedure there prescribed is against the Audit Act, particularly section 30. If this view is correct I shall plainly not be justified in taking part in the issuing of credits after the circular shall have been put in operation, and therefore I hope that you will look again at once into the matter.

It appears to me that the statute requires the returning of the cheques by the bank to the department which issued them and the forwarding of them to this office by the department.

I have, &c.,

J. L. McDOUGALL, A.G.

J. M. COURTNEY, Esq., C.M.G.,
Secretary, Treasury Board.

FINANCE DEPARTMENT, OTTAWA, July 3, 1903.

SIR,—I have the honour to inclose herewith a letter under this date from the Auditor General, with reference to a minute of the Treasury Board under date of June 13, a copy of which is inclosed, dealing with letter of credit cheques. You will notice that the Auditor General contends that the procedure provided in the minute is against the Audit Act, particularly section 30, and that the statute requires the returning of the cheques by the bank to the department which issued them and the forwarding of them to the audit office by the department.

I shall be glad to be advised at your earliest convenience whether in your opinion the Auditor General is right in his contention, or whether, on the contrary, the Treasury Board had authority under the Act to make the minute in question and prescribe the manner in which the cheques are to reach the Auditor General. I shall be glad to be advised quickly as the matter is important.

I have, &c.,

The Acting Deputy Minister of Justice,
Ottawa.

J. M. COURTNEY, D.M.F.

FINANCE DEPARTMENT, OTTAWA, July 6, 1903.

DEAR SIR,—I am in receipt of your letter of the 3rd instant in regard to the procedure prescribed by the Treasury Board minute of the 13th ultimo, dealing with letter of credit cheques.

As your opinion appears to be that the procedure provided in the minute is contrary to the provisions of the Audit Act, may I suggest that you obtain the opinion of counsel in the matter, as the question raised is one dealing with the interpretation of a statute.

Yours, &c.,

J. M. COURTNEY, D.M.F.

J. L. McDOUGALL, Esq., C.M.G.,
Auditor General, Ottawa.

AUDITOR GENERAL'S OFFICE, CANADA,

OTTAWA, July 9, 1903.

SIR,—In reply to your letter of the 6th instant, regarding the Order of the Treasury Board about letter of credit cheques, I beg to state that I have handed to Mr. Fraser a letter of Mr. F. H. Chrysler, K.C., dealing with the interpretation of the Audit Act and specially the 30th section. His view, as you will see, accords with mine.

I have, &c.,

J. L. McDOUGALL, A.G.

J. M. COURTNEY, Esq., C.M.G.,
Deputy Minister of Finance.

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AUDITOR GENERAL'S OFFICE, CANADA,

OTTAWA, July 10, 1903.

SIR,—Referring to your letter of the 6th instant, regarding the method of dealing with letter of credit cheques, I beg to inclose herewith a copy of the opinion of Mr. F. H. Chrysler, K.C., mentioned in my letter of yesterday's date.

I have, &c.,

J. L. McDOUGALL, A.G.

J. M. COURTNEY, Esq., C.M.G.,

Deputy Minister of Finance.

OTTAWA, CANADA, July 8, 1903.

DEAR SIR,—At your request I have examined the extract from the Treasury minute of the 13th June, 1903, in reference to the system of issuing cheques and the carrying out of the letter of credit system, and particularly that part of it which recommends 'that all the bank statements of the paid cheques for the several departments, together with the cheques themselves, be sent direct by the banks to the Finance Department.'

I have come to the conclusion that the proposed recommendation would not be in accordance with the requirements of section 30 of that Act. The procedure indicated in section 30 is as follows:—Firstly, a credit is to be issued in favour of the different departments on the several banks authorized to receive the public moneys; and, secondly, statements in duplicate of moneys drawn for under such credits, together with the cheques paid by the banks in connection therewith, are to be rendered—one duplicate of such statement, together with the cheques, to the Auditor General, and the other duplicate to the Minister of Finance.

The statute does not expressly state by whom the statements are to be prepared and the cheques returned. It is apparent, however, that the statement prescribed can only be prepared by the department. It is not a statement from the bank, because the bank statement can only show the paid cheques, and the statute required a statement of the issued cheques, or moneys drawn for under the credits, together with a statement of the cheques paid by the banks in connection therewith, and, although it is not so stated in the section, it is clear by necessary inference that the banks must return the paid cheques periodically to each department for comparison with their accounts, and to enable them to prepare the statement of moneys drawn for under such credits and of the cheques paid by the banks in connection therewith, which are then by the department to be transmitted in duplicate, as already mentioned.

The change proposed by the Treasury minute is inconsistent with the procedure pointed out by section 30 in requiring the bank statements of the paid cheques to be sent direct by the banks to the Finance Department, thus taking away from the department issuing the cheques the information required by the department to enable it to prepare the statement of moneys drawn and of the cheques paid in connection therewith.

It may also with some force be argued that the proposed course is not in accordance with section 42 of the Audit Act, as the sending of the paid cheques direct by the bank to the Finance Department must to some extent prevent the deputy heads or other persons charged with the expenditure of public moneys in the several departments from 'auditing the details of the account in the first instance' as required by that section, the examination of the paid cheques in connection with the accounts being a necessary part of the process of auditing the accounts.

I am not expressing any opinion as to the merits of the system advocated by the Treasury minute, but merely as the question which you have asked me, whether the statute requires the returning of the cheques by the bank to the department which issued them and the forwarding of them to the office of the Auditor General and of the Minister of Finance by such department.

Yours respectfully,

F. H. CHRYSLER.

J. L. McDOUGALL, Esq., C.M.G.,

Auditor General, Ottawa, Canada.

SESSIONAL PAPER No. 29d

DEPARTMENT OF FINANCE, OTTAWA, July 11, 1903.

MY DEAR FRASER.—Referring to our conversation of last evening, I send you herewith a copy of Mr. Chrysler's opinion respecting the interpretation of section 30 of the Audit Act.

Yours very truly,

J. M. COURTNEY, *D.M.F.*

G. L. B. FRASER, Esq., K.C.,
Department of Justice.

AUDITOR GENERAL'S OFFICE, CANADA,
OTTAWA, July 13, 1903.

SIR,—I presume that you will send me a copy of any circular which the Board may issue to meet its altered views, owing to Mr. Chrysler's interpretation of section 30 of the Audit Act, so far as it affects the channel through which paid letter of credit cheques are to reach the Audit office from the banks on which they are drawn.

You, of course, feel the full responsibility which rests on you in issuing a credit when you know that the requirements of the part of the statute which governs the same are not being complied with. I am fully impressed with the seriousness, so far as I am concerned, of being in a position similar to yours.

It seems, therefore, that the attention of the Board should be called to the necessity of taking up the question without delay. I naturally feel great reluctance in notifying the banks and the departments that, as I am advised by a high legal authority, the Treasury Board in issuing its circular acted contrary to law.

I might lessen the apparent indelicacy of referring to so high a body in this way by stating that manifestly the Treasury Board in adopting the recommendation of the Martineau commission assumed what it had every right to do, that the commission had not shut its eyes to the direct orders of Parliament in that respect.

I trust that you will see your way to at once impress upon the Board the necessity of dealing with the question without delay and cancelling the circular. May I expect to learn from you not later than to-morrow the action of the Board?

I have, &c.,

J. L. McDOUGALL, *A.G.*

J. M. COURTNEY, Esq., C.M.G.,
Secretary Treasury Board.

FINANCE DEPARTMENT, OTTAWA, July 13, 1903.

SIR,—I have the honour to acknowledge the receipt of your letter of this day's date respecting the Minute of the Treasury Board on the subject of letter of credit cheques.

Some time prior to the receipt of yours of the 10th inst. with Mr. Chrysler's opinion the point at issue was placed before the Department of Justice. I have not as yet received any reply, but as soon as it comes to hand there will be no delay in my taking any action that may be deemed necessary.

I have, &c.,

J. M. COURTNEY, *D.M.F.*

J. L. McDOUGALL, Esq., C.M.G.,
Auditor General, Ottawa.

OTTAWA, July 15, 1903.

SIR,—Referring to your letter of the 3rd instant, with which was inclosed a letter of the same date from the Auditor General with respect to a minute of the Treasury Board of the 13th ultimo, dealing with letter of credit cheques, a copy of the said minute being also inclosed by you, I have the honour to state that I am of opinion that section 30 of the Consolidated Revenue and Audit Act does not make it necessary

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that the cheques paid by the banks in connection with letters of credit shall be returned by the banks direct to the department which issued them and be forwarded by that department to the audit office. I think it is competent for the Treasury Board under that section to prescribe the manner in which the cheques are to reach the Auditor General. It may be necessary in order to the carrying out of the provisions of the Act that the paid cheques should be examined by the department or office issuing them, but I am not asked for an opinion upon that point and, as at present advised, I see no reason why, if such necessity does exist, the paid cheques should not first go to the Department of Finance as is provided by the minute of the Board.

I have, &c.,

A. POWER, *Acting D.M.J.*

The Deputy Minister of Finance,
Ottawa.

FINANCE DEPARTMENT, OTTAWA, July 20, 1903.

DEAR SIR,—I have the honour to inclose herewith a copy of a letter from the Department of Justice relating to the subject of the minute of the Treasury Board of the 13th ultimo respecting the manner of dealing with the letter of credit cheques.

While the Finance Department, in accordance with the opinion of the Acting Deputy Minister of Justice, considers it competent for the Treasury Board, under the 30th section of the Audit Act, to prescribe the manner in which the cheques shall reach you, and therefore deems the minute of the 13th ultimo strictly within the law, yet to remove any obstacle, legal or otherwise, that may be in your mind with regard to the procedure laid down in that minute, and to facilitate in every way your audit and what you deem necessary therefor, I propose asking the Board at their first meeting to amend the said minute so that after the examination of the cheques by the Finance Department they may be returned to the several departments for transmission thence to you.

I have, &c.,

J. M. COURTNEY, *D.M.F.*

J. L. McDougall, Esq., C.M.G.,
Auditor General, Ottawa.

EXTRACT *from the Minutes of a meeting of the Honourable the Treasury Board, held at Ottawa, on the twenty-third day of July, 1903.*

The Board had under consideration correspondence with the Auditor General in regard to their minute of the 13th June, 1903, with reference to the method of dealing with letter of credit cheques, the Auditor General contending that the procedure prescribed in such minute was contrary to the Consolidated Revenue and Audit Act, particularly section 30, as it appeared to him that the statute required the returning of the cheques to the department which issued them and the forwarding of them to the Audit Office by that department. In support of his contention he submits an opinion from F. H. Chrysler, K. C.

The Board are advised by the Department of Justice that it is competent for the Board under section 30 of the Consolidated Revenue and Audit Act to prescribe the manner in which the cheques are to reach the Auditor General, and in view of such advice they are of opinion that the procedure laid down in their minute of the 13th June, 1903, is strictly within the law, yet in order to remove any obstacle, legal or otherwise, that may be in the mind of the Auditor General in regard to the procedure laid down in the minute, and to facilitate in every way the audit by the Auditor General and what he deems necessary therefor, the Board direct that clause 4 of their minute of the 13th June, 1903, which provides as follows:—‘4. after adjustment, &c.,’ be cancelled and the following substituted therefor:—

‘After the Finance Department has completed its checking of the paid cheques and bank accounts the cheques shall be returned to the department which issued them to be by such department sent to the Auditor General.’

J. M. COURTNEY, *Secretary.*

SESSIONAL PAPER No. 29d

AUDITOR GENERAL'S OFFICE, CANADA.

OTTAWA, July 24, 1903.

J. M. COURTNEY, Esq., C.M.G.,
Secretary, Treasury Board.

SIR,—I beg to inclose a letter received from Hon. F. R. Latchford with regard to the Treasury Board minute concerning the disposition of letter of credit cheques.

I have, &c.,

J. L. McDOUGALL, A.G.

19 ELGIN ST., OTTAWA, July 22, 1903.

DEAR SIR,—In accordance with your request for my opinion upon the extract from the Treasury minute of June 13, 1903, requiring that all the bank statements of the paid cheques for the several departments, together with the cheques themselves, be sent direct by the banks to the Finance Department, I wish to say that I have carefully considered the recommendation of the Treasury Board, and having in view the provisions of section 30 of the Consolidated Revenue and Audit Act, I have reached the conclusion that the procedure recommended does not conform to the requirements of the Act.

The section in question prescribes that, after credits have been issued on the several banks authorized to receive moneys, 'statements in duplicate or moneys drawn for under such credits, together with the cheques paid by the banks in connection therewith, shall be rendered' at such times, in such forms and with such frequency as the Treasury Board directs. It also requires that one duplicate of such statement, together with the cheques, shall be rendered to you.

It is to be observed that the 'statements in duplicate' mentioned in the statutes are not of paid cheques, but simply 'of moneys drawn for.' The statements are to show the cheques issued. Hence such statements must be made—not by the banks, which can have knowledge of only such cheques as have been paid—but by the particular department which has drawn the cheques against the amounts placed to its credit. As one duplicate of each of such statements must be accompanied by the cheques paid by the banks, it follows that the cheques must be in the possession of the department rendering the statement. In my opinion the procedure set forth in section 30 implies necessarily that the banks shall return the paid cheques to the department which issued them, and that the department shall transmit to the Auditor General a complete statement not only of the cheques paid, but also of all cheques issued, together with the paid cheques returned by the banks.

The statements of paid cheques referred to in the Treasury minute, and therein required to be rendered by banks to the Finance Department, are not the 'statements of money drawn for' mentioned in section 30 of the Audit Act. The statute requires a statement of 'the moneys drawn for,' together with the cheques paid by the banks, to be sent to the Auditor General. The Treasury minute requires that the same cheques, though with a different statement, shall be sent by the banks to the Finance Department. The two courses cannot be followed; and whatever may be the advantage of the change proposed, I am satisfied that the statute must prevail until amended, and that the requirements of the Treasury Board in contravention of the statute are invalid.

Yours truly,

F. R. LATCHFORD.

J. L. McDOUGALL, Esq., C.M.G.,
Auditor General of Canada, Ottawa.

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OTTAWA, July 31, 1903.

DEAR SIR.—I have sent under separate envelope my remarks on the Martineau report for presentation to Parliament, this being the manner of dealing with the question on my part that you suggested.

Perhaps you will be able to present it to-day.

Respectfully yours,

J. L. McDOUGALL.

Hon. W. S. FIELDING,
Minister of Finance.

MEMO:—The remarks above referred to are contained in the Supplementary Report of the Auditor General on the findings of Martineau Commissioners laid before Parliament.

OTTAWA, August 3, 1903.

DEAR MR. McDOUGALL,—I beg to acknowledge receipt of your letter of 31st ultimo and the accompanying memorandum in which you comment on the report of the commissioners in the Martineau case.

I think that if you desire to do so you have a right to submit a supplementary report to Parliament. May I suggest that you put your memorandum in that form. I will then lay it on the table of the House.

Yours faithfully,

W. S. FIELDING, *M.F.*

J. L. McDOUGALL, Esq., C.M.G.,
Auditor General, Ottawa.

OTTAWA, August 5, 1903.

DEAR MR. FIELDING,—Perhaps you will be good enough to send me the copy of my remarks on the Martineau commissioners' report which was sent to you some days ago and which you do not now require.

Yours respectfully,

J. L. McDOUGALL.

Hon. W. S. FIELDING,
Minister of Finance.

AUDITOR GENERAL'S OFFICE, OTTAWA, August 26, 1903.

SIR,—I have just sent the letter of which a copy is enclosed, to the Bank of Montreal and the Bank of Commerce.

You will quite understand the purpose that I have in view. I want to know from the bank what it has paid as cheques issued by you under the letter of credit, and I want, besides, the record of the cheques. I want also an acknowledgment from you that the bank's claim is a correct one.

The examination which is made by the Finance Department is one that I have not called for, but one that the Government of course has a perfect right to require. I have a right to ask from you all that I am now asking as you will see, apart altogether from the Treasury Board minute, under the 30th section of the Audit Act.

If the banks should comply with my request, and I see no reason why they should not, you will be in a position to do what seems to me necessary for my protection as well as your own.

I have, &c.,

J. L. McDOUGALL, *A.G.*

W. H. HAYES, Esq., Accountant of Contingencies.

SESSIONAL PAPER No. 29d

Enclosure with letter to Mr. Hayes.

AUDITOR GENERAL'S OFFICE, OTTAWA, August 26, 1903.

SIR,—Whenever you send cheques and a statement to the Finance Department, the cheques being under letter of credit, will you be good enough to send a duplicate of the statement to the Department which has drawn the cheques. This is needed for the purpose of enabling the Department to send the statement with the cheques, when the cheques are sent to me. It is necessary in the performance of my duties for me to learn from the bank itself what the cheques are which have passed through its hands.

I should like this arrangement to commence with the first cheques of the current year.

I have, &c.,

J. L. McDOUGALL, A.G.

KING'S PRINTER, CANADA,
OTTAWA, Sept. 2, 1903.

MY DEAR COURTNEY,—I inclose you a copy of the letter which the Auditor General has sent me, and I can see from it the position that he has taken. I asked the credit and this is the answer I have received. It is not a categorical refusal, but it is equivalent to it.

Yours truly,

S. E. DAWSON.

J. M. COURTNEY, Esq.,
Deputy Minister of Finance, Ottawa.

AUDITOR GENERAL'S OFFICE, CANADA,
OTTAWA, August 31, 1902.

SIR,—I am in receipt of your application of the 28th instant for a letter of credit for \$50,000 on account of appropriation of 1903-4.

Before issuing any further credits I would like to know how far you have been successful in obtaining the statements asked for in my circular letter of the 26th instant.

I have, &c.,

J. L. McDOUGALL, A.G.

S. E. DAWSON, King's Printer, &c.

AUDITOR GENERAL'S OFFICE, CANADA,
OTTAWA, September 2, 1903.

DEAR MR. FIELDING,—There is still trouble in connection with the Treasury Board Minute regarding the examination of paid letter of credit cheques on their return from the bank. The amended minute says: '4. After the Finance department has completed its checking of the paid cheques and bank account the cheques shall be returned to the department which issued them to be by such department sent to the Auditor General.'

This amendment is construed to mean that the whole point for which I have been contending is that the department which issued the cheques should be the messenger to convey the cheques to me, for the cheques are forwarded to me in a bundle without my being furnished with a statement of any kind to determine their numbers or amounts or to otherwise settle any claim that might be made that this office had received a cheque which could not be found here.

All my requirements would be met by the Finance Department furnishing in each case the department concerned with the statement which the Finance Department receives from the bank. I mean of course when your department has finished its checking and other examination. The department would afterward send the statement and the cheques to me. In that way I would have the bank's claim for cheques cashed with the cheques, so that a new Martineau irregularity could no more than start before it would be stopped.

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My reason for now bringing this matter before you is that I may be prevented from the disagreeable necessity of declining to pass applications for credits if I am to obey the 30th section of the Audit Act.

My requirement might be complied with in another way, that, is by the bank sending me a duplicate of the statement furnished to the Finance Department.

Yours respectfully,

J. L. McDOUGALL.

Hon. W. S. FIELDING,
Minister of Finance.

OTTAWA, September 2, 1903.

DEAR MR. McDOUGALL,—I am in receipt of your letter of this day's date respecting letter of credit cheques.

I am glad that you have brought the matter up, because at the present moment the Bank of Montreal, in their statement sent to the Finance Department to-day, claims that the advances made under letters of credit amount to some four and a quarter millions of dollars. Steps should be taken to have these advances repaid as early as possible.

I note you state that :—‘ All my requirements would be met by the Finance Department furnishing in each case the department concerned with the statement which the Finance Department receives from the bank. I mean of course when your department has finished its checking and other examination. The department would afterward send the statement and the cheques to me. In that way I would have the bank's claim for cheques cashed with the cheques, so that a new Martineau irregularity could no more than start before it would be stopped.’

I have had conversation with my officers, and I have looked carefully into the matter, and I do not see how the bank statement can be sent to the departments to be forwarded to you. The whole intention of the minute of the Treasury Board was to prevent the departments having anything from the bank whatever, and that the Martineau defalcation could not be repeated.

But in order to bring matters to a settlement I will have arrangements made that the bank statements be sent you from the Finance Department, on the understanding that after your officers have duly examined them they will be returned to the Finance Department for custody.

Yours faithfully,

W. S. FIELDING, *M.F.*

J. L. McDOUGALL, Esq., C.M.G.,
Auditor General.

AUDITOR GENERAL'S OFFICE,

OTTAWA, September 2, 1903.

DEAR SIR,—I beg to inclose a letter from the King's Printer which will show the inconvenience which arises from the fact that your department does not pass on the statements of cheques which it receives from the bank, to the departments interested. I should be glad to have a word with you to-night. If you can spare a minute I shall be in the House.

Yours respectfully,

J. L. McDOUGALL.

Hon. W. S. FIELDING,
Minister of Finance.

DEPARTMENT OF PRINTING AND STATIONERY,

OTTAWA, September 2, 1903.

SIR,—I have received your letter declining to issue the credit for which I asked and I beg to say that the credit is absolutely necessary to pay the wages of the operatives and that I must have that to-morrow or else some 400 families will go without the pay which they have earned.

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I would call your attention to the fact that the money required for carrying on this Department is voted by the House under a special Act and not in the shape of an appropriation. So far then as the money necessary to carry on this Department is concerned you have no power to stop it. Parliament has deliberately set aside a certain amount for printing and paper and unless I can obtain the requisite credit I must appeal to the Printing Committee of Parliament and state that you are preventing me from carrying out their wishes and necessities.

I have reported the matter to the Minister at the head of this Department and I beg to say that what the banks may do or may not do is not a matter of any concern to me. I have simply to carry out the statutes made for the guidance of this Department and those who prevent me from doing it must justify themselves as best they may.

I have, &c.,

S. E. DAWSON, *K. P. & C. S.*

The Auditor General, Ottawa.

OTTAWA, September 3, 1903.

DEAR MR. McDOUGALL,—I received your letter last evening. As there was no night session of the House, I did not have the opportunity of meeting you as you proposed.

I think it likely that your letter was written before you received mine of yesterday, which dealt, not particularly with the case of the King's Printer, but with the Departments generally. I hope that the suggestion which I offered will so far meet your wishes that we shall be able to remove the difficulty which now blocks the way of departmental business.

Yours faithfully,

W. S. FIELDING, *M.P.*

J. L. McDOUGALL, Esq., C.M.G.,
Auditor General, Ottawa.

AUDITOR GENERAL'S OFFICE.

OTTAWA, September 3, 1903.

DEAR MR. FIELDING,—I am in receipt of your letter. My letter was written, as you suppose, before yours of yesterday was received by me. Your suggestion, I am sorry to say, was not quite satisfactory but I would prefer dealing with the matter verbally on Saturday if you would be good enough to name an hour when you might see me for a few minutes. I would suggest that Mr. Fraser be present.

Yours respectfully,

J. L. McDOUGALL.

Hon. W. S. FIELDING,
Minister of Finance.

OTTAWA, September 3, 1903.

DEAR MR. McDOUGALL,—I have your letter of this date.

It is possible that I may have to be out of town on Saturday, but if I am in town I will endeavour to see you, although it is not easy to fix a particular hour. Probably at Council at one o'clock would be the best chance.

Yours faithfully,

W. S. FIELDING, *M.P.*

J. L. McDOUGALL, Esq., C.M.G.,
Auditor General, Ottawa.

FINANCE DEPARTMENT, OTTAWA, September 3, 1903.

SIR,—I have the honour to send herewith a file of correspondence respecting the repayment of cheques issued under letters of credit. The correspondence arose under a minute of the Treasury Board dated June 13, passed in consequence of the report of the commissioners in the Martineau matter.

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The Treasury Board in its minute laid down a different method of procedure in reference to the checking of the letter of credit accounts from that which had been in force up to that time and the Auditor General took exception to the method of procedure, contending that it was contrary to that prescribed by the Audit Act, particularly section 30, and he submitted a letter from Mr. Chrysler, K.C., in support of his contention.

This correspondence and Mr. Chrysler's letter were submitted to your department, and I draw your attention to the letter of the Acting Deputy Minister of Justice of July 15 last.

As a result of the correspondence, and in order to remove any obstacle, legal or otherwise, in the mind of the Auditor General in regard to the procedure, the minute of June 13 was amended by a minute of July 23, which provided that after the Finance Department had completed its checking of the paid cheques and bank accounts the cheques should be returned to the department which issued them, to be by such department sent to the Auditor General.

The Auditor General has also obtained an opinion in reference to the procedure from Hon. F. R. Latchford, a copy of which is on the file.

The Auditor General has taken objection to the amended minute, and his views are set forth in his letter of the 2nd instant.

As set forth in Mr. Fielding's letter of the same date, the whole intention of the minute of the Treasury Board was to prevent the departments having anything from the banks whatever, so that the Martineau defalcation could not be repeated; but in order to bring matters to a settlement Mr. Fielding offered to have arrangements made that the bank statements should be sent to the Auditor General from the Finance Department, on the understanding that after examination by officers of the Audit Office they should be returned to the Finance Department for custody.

To this proposition the Auditor General is not willing to accede, and in an interview with Mr. Fielding to-day he contended that under the Audit Act the bank cheques and the statements he wishes should come to him from the department concerned and not from the Finance Department. He also expressed the view that the opinion expressed in Mr. Power's letter of the 15th July last, a copy of which was furnished him at the time, was not inconsistent with the views expressed by Messrs. Chrysler and Latchford.

This Department has understood from Mr. Power's letter above referred to that the regulations made by the Treasury Board are not inconsistent with the provisions of the Audit Act and consequently that the Auditor General was not legally entitled to make the demands he did, and that he is not legally entitled to make the further demands he is now making. Nevertheless, in view of the legal opinions obtained by Mr. McDougall, one of which, Mr. Latchford's, was not submitted to your Department, I am directed to ask you to be good enough to advise me further on the subject.

I shall be glad to hear from you as quickly as possible as the Auditor General is refusing to issue letters of credit until this matter is settled.

I have, &c.,

C. W. TREADWELL, *Acting D.M.F.*

The Deputy Minister of Justice,
Ottawa.

DEPARTMENT OF JUSTICE, OTTAWA, September 8, 1903.

SIR,—Referring to your letter of the 5th instant, inclosing correspondence respecting the repayment of cheques issued under letters of credit, and asking me to advise upon the position stated by the Auditor General in his letter of 2nd instant, I observe that his requirements would be met either by the Finance Department furnishing to the department issuing the cheques the statement received from the bank, and by the latter department afterwards sending the statement and cheques to the Auditor General, or by the bank sending to the Auditor General a duplicate of the statement furnished to the Finance Department. I think it doubtful upon the correspondence whether or not the Auditor General states these requirements as arising upon a proper construction of the

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Consolidated Revenue and Audit Act. It may be that he puts them forward as conditions to his making application to the Minister of Finance and Receiver General for credits under section 30, although he says in his letter of 2nd instant that his reason for stating these requirements is that he may be prevented from the disagreeable necessity of declining to pass applications for credits if he is to obey the 30th section of the Audit Act. However that may be, you will remark that neither the letter of Mr. Chrysler nor of Mr. Latchford uphold or even suggest the view that the statute requires any statement from the bank to be submitted to the issuing department. I observe further, though it may not be material to the present question, that both these letters are previous to the Treasury Board minute of July 23 last, and I do not understand from reading these letters that either of these gentlemen holds the opinion that the paid cheques could not come properly into the possession of the issuing department from the bank through the agency of the Department of Finance.

The bank statement is not a statutory instrument; it is not mentioned in the Audit Act, and I am of opinion that the withholding of this statement from the department which issued the cheques mentioned in the statement is not a circumstance which affects in any wise the authority of the Auditor General to pass applications for credits. No question arises as to the statements of moneys drawn for under letters of credit which are, I suppose, prepared by the respective departments and forwarded to the Auditor General as heretofore.

I do not consider that the Treasury Board regulations conflict at all with section 42 of the Audit Act which requires the several departments in the first instance to audit the details of the accounts of the several services and be responsible for the correctness of such audit. I am of opinion that, in so far as that section applies to the audit now in question, it is sufficiently satisfied by the department charged with the expenditure auditing the cheques before transmission to the Auditor General, and I do not think this section is intended to prevent a previous audit by the Department of Finance if the Government deem it expedient so to require.

I see no reason, therefore, to doubt the validity of the regulations in question in respect of any of the objections raised or suggested by the Auditor General.

I have, &c.,

E. L. NEWCOMBE, *D.M.J.*

C. W. TREADWELL, Esq.,
Acting Deputy Minister of Finance.

FINANCE DEPARTMENT, OTTAWA, September 8, 1903.

SIR,—I am directed by the Minister of Finance to state that the question of the regularity of the proceedings taken by this Department under the authority of the Treasury Board in relation to the transactions with the banks under letters of credit has been submitted to the Department of Justice, and I am in receipt of a letter under this date from the Deputy Minister of Justice sustaining the action of the Treasury Board.

I have the honour, by direction of the Minister of Finance, to send you herewith a copy of the letter from the Deputy Minister of Justice above referred to.

I have, &c.,

C. W. TREADWELL, *Acting D.M.F.*

The Auditor General,
Ottawa.

OTTAWA, September 10, 1903.

DEAR MR. MCDUGALL,—I am sorry I have not been able to see you further respecting the difference between the Treasury Board and yourself in reference to the manner of dealing with the departmental cheques and bank statements. When I last had the opportunity of discussing the matter with you with some fulness, I understood that you still questioned the legality of the regulations made by the Treasury Board, and you cited opinions of legal gentlemen whom you had consulted. Since then the whole mat-

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ter, including the opinions of the gentlemen referred to, has been referred to the Department of Justice, and we have been advised that the regulations made by the Treasury Board are entirely within the proper authority of the Board.

Under these circumstances, I hope that you will not offer any further objections to the arrangements which the Treasury Board deemed it expedient to make.

Yours faithfully,

W. S. FIELDING, *M.F.*

J. L. McDOUGALL, Esq., C.M.G.,
Auditor General, Ottawa.

AUDITOR GENERAL'S OFFICE, CANADA, Sept., 10, 1903.

DEAR MR. FIELDING,—I have just received your letter of this date *re* Treasury Board regulations regarding the dealing with letter of credit cheques after they have gone through the bank.

I did not question the legality of the regulations as I interpreted them. I thought that the second one was not fully carried out by sending the cheques to the departments without supplying them with the bank statements.

Yours respectfully,

HON. W. S. FIELDING,
Minister of Finance.

J. L. McDOUGALL.

AUDITOR GENERAL'S OFFICE, CANADA,
OTTAWA, September 10, 1903.

DEAR MR. FIELDING,—Let me deal a little more at length with the point in difference between us regarding bank statements, so as to find out what are the purposes of opposing actions.

From the time when the Martineau procedure was first explained to me I saw, as it was not very difficult to see, that, if the statement which went to the Militia Department from the bank with the cheques, had been ear-marked so as to have been unalterable and had accompanied the corresponding cheques when they were transferred to this office, it would have served as an ordinary statement of cheques, but its chief value would have been in the fact that it represented all the cheques cashed by the bank as Militia Department letter of credit cheques during the period, and could, therefore, have served to have exposed crookedness as soon as the statement and cheques reached a capable and honest man.

Now, I hope you see that by following my suggestion it will be impossible for the department to make any improper use of the bank statements, and that besides great additional security will be imparted to our banking transactions. Besides, the advantage to the Government in rendering the bank perfectly sure of its position in cashing these cheques will be great. The cheques of the Government will be received without suspicion, as they were before the Martineau forgeries.

Martineau was enabled to continue stealing, not because he had bank statements to manipulate, but because the bank statements were not kept in evidence, because he was enabled to at once conceal them.

The Deputy Minister of Justice says that 'The bank statement is not a statutory instrument; it is not mentioned in the Audit Act, and I am of opinion that the withholding of this statement from the department which issued the cheques mentioned in the statement is not a circumstance which affects in any wise the authority of the Auditor General to pass applications for credits.' Now my view is that an explanation to the bank of the effects which are expected to result from the use of the bank statements will cause the bank to jump at the opportunity of providing the statements. Then if the bank declines to provide you with such information as you require, you may take your business to another bank.

If cases of the Martineau kind were the only ones which could exist, then the bank would be to a much greater degree interested than the Government. There is quite as great a probability of the next case being one of the appropriation of cheques

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signed by the proper persons, but in blank, when under certain conditions it might be a great hardship, even if legal, to refuse repayment to the bank.

Under any circumstances, however, the bank ought to be protected from the chances of repeated inroads being made on its funds, particularly when we can do so without its costing the country anything.

Yours respectfully,

J. L. McDOUGALL.

HON. W. S. FIELDING,
Minister of Finance.

OTTAWA, September 10, 1903.

DEAR MR. McDOUGALL,—I have your letter of this date respecting the Treasury Board regulations.

I regret that I was under a misapprehension as to the nature of your objection.

I had understood you to question the legality of the regulations.

If there was no question of legality involved, I could not see why you deemed it necessary to take advice from two legal gentlemen. From the fact that you obtained legal opinions I assumed that the question was one of legality, and hence referred the matter to the Department of Justice for advice.

If there is no question of legality, then the only question is one of expediency. Of that, it seems to me, the Treasury Board under the law is the proper judge.

Yours faithfully,

W. S. FIELDING, *M.F.*

J. L. McDOUGALL, Esq., C.M.G.,
Auditor General, Ottawa.

AUDITOR GENERAL'S OFFICE, CANADA.

OTTAWA, September 11, 1903.

DEAR MR. FIELDING,—I have your letter of yesterday regarding the Treasury Board regulation. You say that if there was no question of legality involved you could not see why I deemed it necessary to take advice from two legal gentlemen.

I obtained advice from the two legal gentlemen between the time of the passing of the first minute of the Treasury Board and the second. The first minute was in my opinion illegal, because, if followed, it would cut out the departments from making the audit which the 30th section of the Audit Act requires.

With regard to your last paragraph, as you know from our conversation of yesterday, my view is that the Treasury Board is not under the law the authorized judge of what is required for audit. I shall, of course, be glad to give the most careful consideration to any reasons that may be presented to me for taking your view instead of mine.

Yours respectfully,

HON. W. S. FIELDING,
Minister of Finance.

J. L. McDOUGALL.

AUDITOR GENERAL'S OFFICE,

OTTAWA, September 12, 1903.

SIR,—While the difficulty in connection with the issuing of Letters-of-Credit exists I shall be very glad, as far as the working strength of the Audit Office will permit, to pass applications for Receiver General's cheques for the more pressing claims that are before your department. Be good enough to send all the vouchers which are necessary to justify me in passing your applications. The staff of this office would be glad, I am sure, to work after the ordinary office hours if the convenience of your department required it in this connection.

Yours respectfully,

JOHN GORMAN, *for A.G.*

The Deputy Minister, Finance Department.

